

Save the Constitution!

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In the late evening hours of June 25th 1975, Indira Gandhi, the then prime minister, rushed a letter to the president of India. In this letter Mrs Gandhi alerted the president that “information has reached us that indicates that there is an imminent danger to the security of India being threatened by internal disturbances. The matter is extremely urgent”. To move things quickly, Mrs Gandhi had attached a preformulated “proclamation of emergency” that the president could simply sign and return. She also schooled him on the constitution: “Under Article 352, even when there is an imminent danger of such a threat mentioned by me, the necessary Proclamation under Article 352 1 can be issued.” The president obliged, though, perhaps in an desperate act to push back against the unfolding emasculation of his office, made sure he left a mark: Fakhruddin Ali Ahmed changed “Article 352 1” in Mrs Gandhi’s draft to “Article 352 (1)”.

Declaring the state of emergency boosted Mrs Gandhi’s executive powers and clipped Indian citizens of most fundamental rights and civil liberties. But Mrs Gandhi saw this differently. In an interview broadcasted on Thames Television in 1977, shortly after the emergency was revoked, a nosy British reporter pressed Mrs Gandhi to explain if the Allahabad High Court’s stay order, which barred Mrs Gandhi from participating in the Lok Sabha for having fought dirty to win her seat, had anything to do with her plunging into emergency. Mrs Gandhi retorted that she was not intimidated by Indian courts. As Jawaharlal Nehru’s only child and, to cite the colourful phrase of the Congress’s former parliamentary spokesman, “the woman upon whom the Gods have entrusted the destiny of India”, the only thing standing between her and rulership, boasted Mrs Gandhi, was the question “if I want to be prime minister or not”.

Mrs Gandhi’s bearish politics and indifference to the constitution impressed Richard Nixon mightily. After stormy negotiations with Mrs Gandhi on the future of Indo-Pak relations, Nixon confided in a reporter (“don’t quote me on this..hahaha”), that Mrs Gandhi had confirmed his gender theory: When it comes to taking risky foreign policy decisions, “women are really tougher than men”. The worst nightmare in Nixon’s ‘50s chauvinism was consequently “a woman...a CUBAN woman succeeding Fidel Castro! Since we’ve already got enough trouble with him”.

India’s current ruling party, the BJP, broadly Hindu nationalist and pro-market in outlook, interspersed with spasms of leftist regulatory zeal, has not declared a constitutional emergency yet. And it is unlikely to do so. After Narendra Modi remade the party in his own image, conjuring up right-wing ideological spectres from Savarkar to Yogi Adityanath and pushing RSS members into every tentacle of the government’s machinery, his regard for legal procedure and measured policy has increasingly given way to his flamboyant clothing style (which is terrific) and extravagant government programs (which are terrible). In one of

his fits, aired nation-wide on November 8th 2016, Modi nullified all 500 (€6) and 1000 rupee banknotes to rid India of “black money”, leaving Indians to riddle out how to pay for food and shelter the morning after.

Modi’s politics are far more sophisticated than Mrs Gandhi’s. By playing out the cult around his person against his own party, the opposition, the bureaucracy, the military, and the judiciary, Modi has swooped up a mindboggling amount of institutional power. And all this without ever having to write needy letter to the president. He also receives backing from surprising corners. A former Supreme Court Justice recently trumpeted that the RSS, Modi’s paramilitary volunteer movement, constituted a crucial pillar for public safety.

On April 20th, the opposition flexed its parliamentary muscle to impeach Dipak Misra, the Chief Justice of India, who stands accused of allocating cases to the respective benches at his own, politically right-leaning, whim. Rahul Gandhi, the grandson of Mrs Gandhi and now leader of the Congress party, thundered that the CJI’s behaviour warranted impeachment on the grounds of Article 124 (4): there had clearly been “proven misbehaviour and incapacity”. To avoid abuse, Article 124 prescribes a long-winded and thorny process to hold judges accountable to the constitution. It involves, amongst other things, the Vice-President accepting the motion from the Lok Sabha or the upper house and an inquiry committee to hear the case and base their judgement on the high proof-standard of “beyond reasonable doubt”. All this makes Article 124 undertakings more of a marathon than a sprint.

In this case the race was throttled early by Venkaiah Naidu, the Vice-President, who elaborated in his 10-page order that “there is virtually no concrete verifiable imputation. Either the allegations are within judicial domain and concern the internal judicial processes or there are unsubstantiated surmises and conjectures which hardly merit or necessitate further investigation.” As a direct response to the Vice-President’s decision, the Congress party launched the “Save the Constitution” campaign on April 23rd. Before the next Lok Sabha elections are called, presumably in 2019, Rahul Gandhi wants to crush the Modi cult. In a speech given at the launch event for the campaign, in Delhi’s Talkatora Indoor Stadium, Rahul Gandhi chastised Modi for his ego-centric drive to secure political power: “Modi is only interested in Modi. He does not care about poverty, the raping of girls or *dalits* [the former lower castes; now a juicy vote-bank]. The only thing he cares about is what he has to do to get re-elected.”

“The Congress party and Ambedkar have given India the constitution. The Congress has defended it for 70 years. Then the BJP came and battered it. But we will not allow the BJP and the RSS to continue with their disregard of the constitution. In the coming elections the Indian citizens will show Modi that they want the Congress back! [loud cheers] ... Whenever the BJP will interfere with the rights of women, *dalits*, and minorities, they will find a Congress flag waving there”. These words sound fair. But Amit Shah, Modi’s right hand man, immediately reprimanded Rahul Gandhi. It was regretful, Amit Shah said, that Rahul Gandhi, while deriving his legitimacy solely from his lineage had such a bad memory when it came to his family’s entanglements with the constitution.

SUGGESTED CITATION Hussain, Adeel: *Save the Constitution!*, *VerfBlog*, 2018/5/21, <https://verfassungsblog.de/save-the-constitution/>.